



COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NORTHEAST REGIONAL OFFICE

205B Lowell Street, Wilmington, MA 01887 • (978) 694-3200

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CERTIFIED MAIL

November 1, 2006

Richard A. Nylen, Esq.  
Lynch DeSimone & Nylen, LLP  
12 Post Office Square  
Boston, Massachusetts 02109

Re: NEWBURYPORT - Solid Wastes/COR  
Crow Lane Landfill  
Force Majeure - Tarps  
Approval  
FMF No. 39545

Dear Attorney Nylen:

We are in receipt of the submission dated October 31, 2006 by New Ventures Associates, LLC ("New Ventures") to the Massachusetts Department of Environmental Protection, Northeast Regional Office, Bureau of Waste Prevention, Solid Waste Management Section ("MassDEP") and the Office of the Attorney General informing MassDEP that New Ventures experienced a delay complying with the requirements of paragraph 1 (j) of the Preliminary Injunction entered on October 20, 2006 in *Commonwealth of Massachusetts v. New Ventures Associates, LLC*, Suffolk Superior Court, Civil Action No. 06-0790 C (the "Order") due to extraordinarily high winds and other adverse weather conditions on October 28, 29, and 30, 2006.

As you know, paragraph 1 (j) of the Order requires that New Ventures completely cover areas that are not subject to fill, grading, shaping or other activities with tarps within ten (10) days of the Order, or by October 31, 2006.

This information is available in alternate format. Call Donald M. Gomes, ADA Coordinator at 617-556-1057. TDD Service 1-978-694-3492.

<http://www.mass.gov/dep> • Fax (978) 694-3499



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Your October 31, 2006 submission states that New Ventures had almost completed placing all tarps on the Landfill by Friday, October 27, 2006, and that placement of the final tarps had been scheduled for Saturday morning, October 28, 2006. Due to the extraordinary winds and rain that occurred on Saturday, October 28, 2006, and Sunday October 29, 2006, and the wind on Monday October 30, 2006, you state that tarps that had been placed on the Landfill in accordance with the approved protocol blew off the Landfill and other tarps were damaged and must now be repaired. Further, you state that the high winds on October 28 through October 30 prevented tarp placement or repair at the landfill on those days.

MassDEP and the Office of the Attorney General acknowledge that New Ventures, in addition to the October 31, 2006 written submittal, provided notice via email to MassDEP regarding the delay in compliance with the tarp placement requirements of para 1 (j) because of the extraordinary wind events of October 28 through October 30, 2006.

MassDEP and the Office of the Attorney General have reviewed New Ventures' request that the deadline for a return to compliance with the tarp placement requirements of paragraph 1 (j) of the Order be subject to the Force Majeure provisions of paragraphs 16 through 18 of the Order. The Department and the Office of the Attorney General have determined that the extreme wind conditions on October 28 and 29, 2006 were Force Majeure events and have extended by five (5) days from the date of this letter New Ventures deadline to return to compliance with the requirements of paragraph 1 (j).

If you have any questions please contact me at (978) 694-3299.

Sincerely,

This final document copy is being provided to you electronically by the  
Massachusetts Department of Environmental Protection.

A signed copy of this document  
is on file at the DEP office listed on the letterhead.

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John A. Carrigan, Chief  
Solid Waste Management Section

Certified Mail Number: 7006 2760 0000 4034 7563

JAC/jac

Cc: Jack Morris  
City of Newburyport  
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New Ventures LLC (aka Crow Lane Landfill)

Page 4 of 4

Force Majeure – Tarps\_par1(j)

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